Definitions

Office hours: Monday to Friday from 8:00 a.m. to 4:30 p.m.

Consumer: A natural person acting for
purposes not relating to his professional or commercial activities

Article 1 - General

This document establishes all rights and obligations of Proximus public limited company of Belgian public law hereafter referred to as "Proximus" and its customers in respect of the sale of a Proximus telephone exchange (hereinafter referred to as "telephone exchange" or "exchange"), including all the applications, accessories and options as mentionned in the order form.

These General Terms and Conditions shall take precedence over any general terms and conditions established by the customer.

Article 2 - Connection to the Proximus public telephone network

The public telephone network shall be deemed to end at the connection point, i.e., the Customer's telephone socket or connection box. Everything that comes after the connection point shall not belong to the public network of Proximus and shall therefore be the Customer's responsibility.

Article 3 - Delivery and installation

3.1. The telephone exchange is delivered and installed by Proximus (or one of its certified subcontractors) in accordance with the prices as indicated in the order form.

3.2. The delivery and installation procedures shall be indicated in the order form. If no specific procedure is given, installation shall be limited to:
a. the installation of the telephone exchange;
b. connection of the telephone exchange to the distribution frame;
c. the installation and connection of the equipment to the wall sockets provided for this purpose;
d. the connection and activation of any additional applications, accesoiries and options as indicated in the order form;
e. the configuration and activation of the telephone exchange and its equipment;
f. installation and configuration of the data applications.

The cost of internal cabling and the eventual installation of the distribution frame are not included in the installation and will be billed to the Customer at the rates in effect at the time.

3.3. Proximus is only obliged to perform additional work if agreed to in writing beforehand. Any additional work or later change performed by Proximus or its subcontractor will be billed to the Customer at the rate then in effect, together with any call-out charges. Any later change shall follow the sales mode.

3.4. Installation work will be carried out during office hours. The Customer may ask for a quote for any services he wants to be performed outside these hours. The Customer must guarantee access to the telephone exchange at all times to Proximus and/or its subcontractor.
3.5. The services provided shall relate solely to the installation described in the Order Form. Any element not explicitly mentioned therein shall not be covered.

3.6. On receipt of the telephone exchange, the Customer shall, check that the telephone exchange delivered by Proximus complies with what is described in the order form. If the Customer does not lodge any objections with Proximus by registered letter within three calendar days of delivery, he will be deemed, ipso jure, to have definitively, irrevocably and unconditionally accepted the telephone exchange.

The same deadline applies for objections relating to the installation and commissioning of the telephone exchange by Proximus and runs from the date on which the telephone exchange is put into service.

3.7. The Customer must ensure that the telephone exchange is installed in a location that allows for rational layout and normal conditions for installation, use and maintenance. Proximus or its subcontractor may ask for another location if the proposed location isn't suitable. The Customer must bear the costs of installing and maintaining the electrical connections and/or grounding necessary to operate the telephone exchange at the locations indicated by Proximus . In this regard, the provisions of the Belgian Electrotechnical Committee must be complied with.

3.8. The Customer shall provide the necessary software and computer hardware connections (availability of a connection point to the Customer LAN, a fixed IP address, etc.) required for the telephone exchange and its applications to operate.

3.9. In the case of data integration and applications, the network administrator must be present during installation.

3.10. The Customer must make a backup of his whole system (including each PC on which software needs to be installed) before installation and take the necessary steps to ensure that his software is compatible with that of Proximus , particularly with regard to virus protection systems.
3.11. If at the installation it appears that a telephone exchange application doesn't function properly, Proximus or its subcontractor may proceed to the formatting of the PC and the re- installation of the basic operating system and the telephone exchange application. Should the Customer prevent this, Proximus shall not be liable for the malfunctioning of the telephone exchange (application).

Article 4 - Conclusion of the contract

4.1. The contract shall be deemed to be validly concluded on the day that both parties sign the order form.

4.2. Without prejudice to the renunciation right of the consumer in the framework of the trade practices legislation, Proximus reserves the right to impose a fixed penalty for breach of contract, ipso jure and without notice being served, in the event that the Customer cancels, in full or in part, an order. The penalty shall amount to twenty percent of the total amount of the order cancelled.

4.3. Without prejudice to legislative provisions on trade practices, the Customer shall not be entitled to cancel any order once the telephone exchange has been delivered by Proximus , whether in full or in part.

4.4. Proximus may demand an advance payment when it accepts an order. This shall not exceed fifty percent of the total amount of the order.

Article 5 - Warranty

5.1. Without prejudice to the *consumers'* statutory rights, the telephone exchanges sold by Proximus are covered by a warranty against any material flaws or manufacturing defects.

5.2. The warranty shall not cover:
a) damage of any kind whatsoever the cause of which does not predate the sale;
b) damage, faults and defects attributable to the customer, accidental damage, improper usage or poor maintenance, failure to comply with the instructions given in the user manual, lightning, humidity, power surges or any *force majeure* whatsoever;
c) the repair or replacement of moveable elements (cords, wires, outlets, antennas, etc.), the replacement of accessory elements that require regular replacement (batteries, accumulators, paper, ink, etc.) and the supply of cleaning products.
d) call-out charges and hourly rates.

5.3. The warranty shall not apply if:

a) the Customer cannot prove the purchase via a bill, receipt or ad hoc certificate provided by Proximus ;
b) the Customer, or a person not designated by Proximus , changes or repairs the telephone exchange;
c) the telephone exchange serial numbers and/or the brand names are removed or changed.

5.4. The warranty is valid for one year, unless otherwise specified in the Order Form. The warranty period shall come into effect on the date that the telephone exchange is put into operation.

If the buyer is a *consumer*, the warranty period will be extended to two years. During this period the shipment costs of the material are included.

5.5. The Customer shall report any defect to the appropriate technical service at Proximus as soon as it is noted. The telephone numbers of the services are listed in the telephone directory information pages. Proximus will also communicate these numbers to Customers on request.

If the *consumer* does not inform Proximus at the latest two (2) months after the observation of a deficiency in conformity of this deficiency, the consumer shall loose all his rights in the framework of the sale of goods to consumers law, as well as his right to claim damages.

5.6. Proximus shall make every endeavor to repair and/or replace the telephone exchange as soon as possible. Proximus has sole discretion as to the repairs to be undertaken to return the telephone exchange to proper working order. Nevertheless, the *consumer* has the right to demand the free repair or replacement of the the telephone exchange from Proximus , except where this would be impossible or disproportionate.
5.7. Proximus may, at the Customer's request, make service calls outside office hours at the rates then in effect and under the applicable terms and conditions. The Customer may ask for a quote for any services he/she wants to be performed outside these hours.

5.8. If the repair cannot be performed immediately, the Customer may, under certain circumstances, be provided, on request, with a replacement telephone exchange while the original telephone exchange is under repair.

5.9. The warranty on a telephone exchange repaired or replaced shall lapse on the expiry date for the warranty provided when the equipment was purchased, but shall never be less than three months. For the consumers this period is increased by any period(s) of repair and/or replacement.

Article 6 – Terms and conditions of payment

6.1. In principle, payment shall be settled in cash when the telephone exchange is delivered to the Customer, after deduction of any advance payments.

6.2. If deferred payment is allowed, payment shall be made to the account number, by the means and by the due date indicated on the bill.

6.3. Failure by the Customer to pay a bill by the due date shall entitle Proximus , ipso jure and without notice being served, to charge interest on arrears at the legal rate. Furthermore, if payment is not made within fifteen days of a demand being sent by registered letter, Proximus reserves the right to automatically charge the additional flat-rate penalty of fifteen percent set out in the contract, amounting to a minimum of EUR 12.39, to offset the increase in overheads incurred by Proximus .

Article 7 - Transfer of ownership and risk

7.1. The telephone exchange shall remain the property of Proximus until the customer has paid all amounts owing to Proximus in connection with this contract. Until this is the case, the Customer shall not transfer, alter, give as security or a guarantee, or lend the telephone exchange in any way whatsoever to a third party, nor shall he have any right of ownership thereto. If the telephone exchange is seized or otherwise claimed by a third party, the Customer shall oppose this and notify Proximus immediately to enable the latter to protect its proprietary interests.

7.2. The risks shall transfer to the Customer when the telephone exchange is delivered. Thereafter, all risks of loss, theft or destruction, in full or in part, of the telephone exchange shall be borne by the Customer.

Article 8 – Proximus liability

8.1. In general, Proximus shall not be liable unless in case of gross misconduct or deceit by Proximus or one of its employees.

Moreover the customer recognizes and accepts that Proximus doesn't assume any responsability for immaterial damages as well as damages such as loss of earnings, profit, business, interruption of activity, loss or damage of data.

Without prejudice to the imperative legal dispositions, in all cases in which Proximus eventually might be held liable, its liability shall be limited to 125.000 EUR.

8.2. Proximus shall not be liable for any direct or indirect damage attributable to the software delivered with or installed in the telephone exchange.
8.3. Proximus shall not be liable for the content of communications or messages nor for the integrity of any data transmitted over its network. Nor is Proximus liable for third-party services provided via its network or the billing therefor. Proximus does not guarantee nor is it liable for services or information provided by or distributed via its network. Proximus shall not be liable for any transactions between a third party and the Customer. Under no circumstances shall Proximus be deemed to be a party to any contracts concluded between a third party and the Customer, unless specified otherwise.

8.4. No guarantee can be provided as to the quality of the connections and/or service if the Customer connects, directly or indirectly, to an operator or service provider via interfaces and/or signaling, even where these comply with the standards at national or European level. Proximus is not liable for any lack of and/or deterioration of service quality, nor for any financial loss or loss of profit resulting from inappropriate routing.

Article 9 - Customer's liability

9.1. The Customer shall comply with netiquette and the acceptable-use policies applicable to networks which he/she accesses via the telephone exchange.

9.2. The Customer shall comply with the legislation in effect in sending data via the telephone exchange. Prohibited data shall include, but not be limited to, information which is illicit, inaccurate, obscene or defamatory, contrary to public order and/or an offence against public decency, a violation of user privacy, or incitement to racial hatred or xenophobia.

9.3. The Customer shall not infringe the intellectual property rights, including copyright, of Proximus or any third party.

9.4. The Customer shall likewise undertake not to send any unsolicited messages or data.

9.5. The Customer shall refrain from committing acts of computer piracy or hacking of the Proximus network or any other system.
9.6. The Customer shall preserve the secrecy and confidentiality of his/her password and user name. The Customer shall be liable for all use of these identification elements. The Customer shall notify Proximus immediately in the event of the loss, theft or fraudulent use of any of these elements and confirm this by registered letter. The Customer's liability shall cease the working day after that on which Proximus receives the registered letter of notification.

9.7. The Customer shall regularly make a back- up of the data.

9.8. The customer is responsible for facilitating the implementation of

work to be performed and he shall make suitable personnel available free of charge.

9.9. The customer shall be responsible for the accuracy, completeness and reliability of the information and documentation made available by him to Proximus , even if these originate from third parties.

Article 10 - Documents and software

10.1. Proximus shall grant the Customer a non- exclusive right to the use of the diagrams and any other technical and commercial documents related to the telephone exchange sold. These documents shall not be given to a third party without Proximus consent in writing.

10.2. The standard version of the telephone exchange software or firmware may be provided to the Customer, giving the latter a simple, non- exclusive and non-transferable right to use the software and any other software provided separately. The Customer hereby explicitly acknowledges that all software contains technical and confidential information that are the property of Proximus or its supplier. The Customer shall not replicate or copy the software and shall preserve its confidential nature. Any additional software provided is subject to the General Terms and Conditions accompanying the software on delivery or set out in a licensing agreement.

Article 11 - Maintenance contract

Customers that have purchased an installation from Proximus may, at any time, conclude a maintenance contract with Proximus .

Unless the maintenance contract is concluded at the same time as the sale, the acceptance of the request for a maintenance contract shall be subject to a prior technical examination, at the Customer's expense and billed at the rates then applying.

Article 12 – Termination of the contract

12.1 If delivery is delayed beyond the scheduled date by more than fifteen working days due to a fault attributable to Proximus , the Customer may, by registered letter, either terminate the contract or demand compensation amounting to one and a half percent of the sales price for the telephone exchange for every full week it is not delivered. Under no circumstances shall the total compensation exceed twenty (20) percent of the sales price.

12.2 If the Customer does not pay a bill by the due date, Proximus shall send a demand by registered letter. If no payment is received within fifteen working days of the demand being served, Proximus may terminate the contract immediately by sending the Customer a registered letter. On termination of the contract, the Customer shall return any telephone exchange delivered to Proximus at his/her own expense. In the event of termination on these grounds, Proximus shall be entitled to compensation amounting to a maximum of twenty percent of the amounts due.

Article 13 – Complaints to Proximus

In the event of difficulties with respect to implementation of the contract, the Customer shall contact the local Proximus service.

Article 14 – Complaints to the Ombudsman's Service

14.1. The Customer may contact the Telecommunications Ombudsman's Service, an arbitration service completely independent of Proximus that handles customer complaints about Proximus 's activities.

14.2. The address and telephone number of the Ombudsman's Service are listed in the telephone directory information pages. Proximus shall also communicate these details to customers on request.

14.3. Complaints are only admissible if submitted in writing. Customers may however telephone the Ombudsman's Service to ascertain the status of any complaint filed.

14.4. A complaint is only admissible if the Customer can show that he/she first took the necessary steps via Proximus .

14.5. The Telecommunications Ombudsman's Service is under no obligation to handle complaints relating to facts that took place more than one year prior to the submission of the complaint.

14.6. The Ombudsman's Service will cease to investigate a complaint if it is brought to court.

Article 15 - Applicable law and competent courts

15.1. The Brussels courts shall have sole jurisdiction for any disputes relating to the interpretation or performance of this contract.

15.2. The provisions of contract shall be governed by Belgian Law.